

REMARKS:

Claims 1-7, 9-16, 18-25, and 27-30 are currently pending in the subject Application.

Claims 1-7, 9-16, 18-25, and 27-30 stand rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,219,649 to Joel Jameson ("*Jameson*").

REJECTION UNDER 35 U.S.C. § 103(a):

Claims 1-7, 9-16, 18-25, and 27-30 stand rejected under 35 U.S.C. § 103(a) over *Jameson*. This rejection is respectfully traversed.

The Applicants respectfully submits that *Jameson* fails to disclose, teach, or suggest each and every element of Claims 1-7, 9-16, 18-25, and 27-30. The Applicants further respectfully submit that the ***amendments to independent Claims 1, 9, 10, 18, 19, and 27 have rendered moot the Examiner's rejection of these claims and the Examiner's arguments in support of the rejection of these claims***. The Applicants still further respectfully submit that currently amended independent Claims 1, 9, 10, 18, 19, and 27 contain unique and novel limitations that are not disclosed, suggested, or even hinted at in *Jameson*. Support for the amendment to independent Claims 1, 9, 10, 18, 19, and 27 may be found in the Specification on at least page 8, lines 6-22; page 9, lines 3-24; and Figure 4. Thus, the Applicants respectfully traverse the Examiner's obvious rejection of Claims 1-7, 9-16, 18-25, and 27-30 under 35 U.S.C. § 103(a) over *Jameson*.

Jameson Fails to Disclose, Teach, or Suggest Various Limitations Recited in Applicants Claims

For example, with respect to amended independent Claim 1, this claim recites:

A computer-implemented method for solving a supply chain planning problem, comprising the steps of:

decompositioning the supply chain planning problem into a plurality of independent sub-problems;

providing a plurality of distributed database partitions, each partition of said plurality of distributed partitions associated with a

respective independent sub-problem of said supply chain planning problem;

operating at least one processor in said database, **each of said at least one processor associated with a respective partition of said plurality of distributed database partitions;**

forming a plurality of distributed sub-problem partitions, each of said distributed sub-problem partitions including a plurality of related items and associated with a respective independent sub-problem of said supply chain planning problem;

loading data into a plurality of distributed database partitions, said data associated with said plurality of related items, and each of said distributed database partitions associated with a respective one of each of said distributed sub-problem partitions; and

solving each of said plurality of said independent sub-problems by separate processes operating in parallel in said database. (Emphasis Added).

Amended independent Claims 9, 10, 18, 19, and 27 recite similar limitations. *Jameson* fails to teach or suggest each and every limitation of amended independent Claims 1, 9, 10, 18, 19, and 27.

The Applicants respectfully submit that *Jameson* fails to disclose, teach, or suggest amended independent Claim 1 limitations regarding “**providing a plurality of distributed database partitions, each partition of said plurality of distributed database partitions associated with a respective independent sub-problem of said supply chain planning problem**”. The Office Action points to column 7, lines 45-54 and column 8, lines 19-21 of *Jameson* as teaching this limitation. The Applicants respectfully disagree. However, these two passages of *Jameson* merely provide clusters to solve problems and grouping scenarios into clusters. As shown in Figure 2, the two clusters presented each consist of two scenarios. Scenarios are the independent sub-problems. Therefore, *Jameson* merely teaches grouping similarly sub-problems into clusters. *Jameson* fails to teach, suggest, or even hint that each physical database partition is associated with an independent sub-problem, as recited in amended independent Claim 1. Thus, *Jameson* fails to disclose, teach, or suggest “**providing a plurality of distributed database partitions, each partition of said plurality of distributed database partitions associated with a respective independent sub-problem of said supply chain planning problem**”, as recited in amended independent Claim 1.

The Applicants further respectfully submit that *Jameson* fails to disclose, teach, or suggest amended independent Claim 1 limitations regarding “operating at least one processor in said database, ***each of said at least one processor associated with a respective partition of said plurality of distributed database partitions***”. The Office Action points to *Jameson*, column 5, lines 10-35 and column 24, lines 61-67, as teaching this limitation. The Applicants respectfully disagree. The passage in column 5, lines 10-35 of *Jameson* merely teaches using multiple processors. Column 24, lines 61-67 of *Jameson* teaches that certain instances of the ZCluster::Native Optimizer and the ZCluster Improver functions may be solved in parallel. *Jameson* fails to teach, suggest, or even hint that each processor of the multiple processors is associated with a specific database partition out of a plurality of database partitions; especially as *Jameson* does not teach physical database partitions. Thus, *Jameson* fails to disclose, teach, or suggest “operating at least one processor in said database, ***each of said at least one processor associated with a respective partition of said plurality of distributed database partitions***”, as recited in amended independent Claim 1.

The Applicants still further respectfully submit that *Jameson* fails to disclose, teach, or suggest amended independent Claim 1 limitations regarding “***solving each of said plurality of said independent sub-problems by separate processes operating in parallel in said database***”. In particular, the Office Action points to *Jameson*, column 5, lines 10-35; column 8, lines 8-25; and column 24, lines 61-67, as teaching this limitation. The Applicants respectfully disagree. As discussed above, the passage in column 5, lines 10-35 of *Jameson* merely teaches using multiple processors. The passage in column 8 lines 8-25 of *Jameson* teaches determining the optimal allocation point for each sub-problem and then determining the optimal allocation point for the cluster based on the optimal allocation point for each sub-problem. Column 24, lines 61-67 of *Jameson* teaches that certain instances of the ZCluster::Native Optimizer and the ZCluster Improver functions may be solved in parallel. *Jameson* fails to teach, suggest, or even hint “***solving each of said plurality of said independent sub-problems by separate processes operating in parallel in said database***”. At best *Jameson* merely teaches that some instances of some sub-classes of the ZCluster may be processed in parallel. However, that is not the same as “***solving each of said plurality of said independent sub-***

problems by separate processes operating in parallel in said database,” as recited in amended independent Claim 1.

The Applicants Claims are Patentable over the *Jameson*

The Applicants respectfully submit that amended independent Claim 1 is considered patentably distinguishable over *Jameson*. This being the case, amended independent Claims 9, 10, 18, 19, and 27 are also considered patentably distinguishable over *Jameson*, for at least the reasons discussed above in connection with amended independent Claim 1.

Furthermore, with respect to dependent Claims 2-7, 11-16, 20-25, and 28-30: Claims 2-7 and 28 depend from amended independent Claim 1; Claims 11-16 and 29 depend from amended independent Claim 10; and Claims 20-25 and 30 depend from amended independent Claim 19. As mentioned above, each of amended independent Claims 1, 9, 10, 18, 19, and 27 are considered patentably distinguishable over *Jameson*. Thus, dependent Claims 2-7, 11-16, 20-25, and 28-30 are considered to be in condition for allowance for at least the reason of depending from an allowable claim.

For at least the reasons set forth herein, the Applicants respectfully submit that Claims 1-7, 9-16, 18-25, and 27-30 are not rendered obvious by *Jameson*. The Applicants further respectfully submit that Claims 1-7, 9-16, 18-25, and 27-30 are in condition for allowance. Thus, the Applicants respectfully request that the rejection of Claims 1-7, 9-16, 18-25, and 27-30 under 35 U.S.C. § 103(a) be reconsidered and that Claims 1-7, 9-16, 18-25, and 27-30 be allowed.

THE LEGAL STANDARD FOR OBVIOUSNESS REJECTIONS UNDER 35 U.S.C. § 103:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, ***there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.*** Second, there must be a

reasonable expectation of success. Finally, **the prior art reference** (or references when combined) **must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, **and not based on applicant's disclosure**. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); M.P.E.P. § 2142. Moreover, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). If an independent claim is nonobvious under 35 U.S.C. § 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988); M.P.E.P. § 2143.03.

With respect to alleged obviousness, **there must be something in the prior art as a whole to suggest the desirability**, and thus the obviousness, of making the combination. *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561 (Fed. Cir. 1986). In fact, the absence of a suggestion to combine is dispositive in an obviousness determination. *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573 (Fed. Cir. 1997). The mere fact that the prior art can be combined or modified does not make the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990); M.P.E.P. § 2143.01. The consistent criterion for determining obviousness is whether the prior art would have suggested to one of ordinary skill in the art that the process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art. Both the suggestion and the expectation of success must be founded in the prior art, not in the Applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991); *In re O'Farrell*, 853 F.2d 894 (Fed. Cir. 1988); M.P.E.P. § 2142.

A recent Federal Circuit case makes it clear that, in an obviousness situation, the prior art must disclose each and every element of the claimed invention, and that any motivation to combine or modify the prior art must be based upon a suggestion in the prior art. *In re Lee*, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). Conclusory statements regarding common knowledge and common sense are insufficient to support a finding of obviousness. *Id.* at 1434-35.

CONCLUSION:


In view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and early reconsideration and a Notice of Allowance are earnestly solicited.

Although the Applicants believe no fees are deemed to be necessary; the undersigned hereby authorizes the Commissioner to charge any additional fees which may be required, or credit any overpayments, to **Deposit Account No. 500777**.

Please link this application to Customer No. 53184 so that its status may be checked via the PAIR System.

Respectfully submitted,

11/16/06
Date


James E. Walton, Registration No. 47,245
Steven J. Laureanti, Registration No. 50,274
Daren C. Davis, Registration No. 38,425
Michael Alford, Registration No. 48,707
Law Offices of James E. Walton, P.L.L.C.
1169 N. Burleson Blvd., Suite 107-328
Burleson, Texas 76028
(817) 447-9955 (voice)
(817) 447-9954 (facsimile)
steven@waltonpllc.com (e-mail)

CUSTOMER NO. 53184

ATTORNEYS AND AGENTS FOR APPLICANTS

SJL/blj